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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,833	01/30/2004	Hsien Yao Chi	BHT-3125-189	3863

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EXAMINER

NELSON JR, MILTON

ART UNIT PAPER NUMBER

3636

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,833

Applicant(s)

CHI, HSIEN YAO

Examiner

Milton Nelson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with grammatical errors and indefiniteness. Proper idiomatic English is required for the claims. A proper understanding of that which Applicant intends to define in the claims has been greatly hindered. Examples of vagueness in the claims are as follows: In lines 1-2 of claim 1, the recitation "a spongy mass mounted on top of the saddle thereof" appears to set forth the saddle as being part of the spongy mass (note the term "thereof"). Note similar usage of the term "thereof" throughout the claims. Line 4 of claim 1 appears to be grammatically incorrect. Note the recitation "characterized by that". Lines 5-6 of claim 1 are grammatically vague. Note the recitation "being preset at the spongy mass therein without in direct contact with the upper surface of the saddle thereof". Lines 8-15 of claim 1 are narrative in form and replete with indefinite and functional. In line 8, the recitation "the saddle thereof" is vague. In line 10, it cannot be determined what is represented by the recitation "dented in a radian". In lines 10-11, the recitation "to that

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of the hipbones to figure a suspended and elastic arc effect thereof” is grammatically vague. In line 12, the recitation “the saddle thereon” is grammatically vague. In line 12, “the ergonomics” lack proper antecedent basis. In line 14, “the saddle thereof” is grammatically vague. In line 15, “the best riding condition” lacks proper antecedent basis. In claims 2 and 3, Applicant indicates that the reinforcing area “can be” and “can also be” preset in various manners. These recitations are indefinite since it cannot be determined if Applicant intends to positively claim the preset states of the reinforcing area. In claim 4, is “the an elastic reinforcing area” intended to be the same feature as the previously set forth reinforcing area. In claim 4, it is unclear what is represented by “the ergonomics”. In claim 4, the recitation “the spongy mass thereof” is grammatically vague. In claim 4, “the middle section” lacks proper antecedent basis. The last line of claim 4 is grammatically incorrect. Note the recitation “the cleft of the buttocks of human body”. In claim 5, the recitation “can also be” fails to positively define the scope of the claim. In claim 5, “the through hole” lacks proper antecedent basis. In claim 5, the term “like” fails to define the metes and bounds of the claim. The recitation “the elastic reinforcing are thereof” is grammatically vague. Line 4 of claim 6 is grammatically vague. Note the recitation “of one surface thereon”. The term “like” in claim 7 fails to define the scope of the claim. In claim 8, “the inflation zone” lacks proper antecedent basis. In claim 8, the recitation “can be” is indefinite. In claim 8, the recitation “a sleeve mouthpiece thereby” is grammatically vague. In claim 8, “the other inner side” lacks proper antecedent basis. In claim 8, “the inner side of the inflation nozzle” lacks proper antecedent basis. In claim 8, the recitation “air contained at the air

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bag element therein" is grammatically vague. In claim 9, "the inflation zone" lacks proper antecedent basis. In claim 9, the recitation "the air bag element thereof" is grammatically vague. In claim 9, the recitation "can also have" is indefinite. In claim 9, the recitation "at one side thereon" is grammatically vague. In claim 9, the scope of the term "needle-like" cannot be ascertained. In claim 10, the recitation "the air bag element thereof" is vague. In claim 10, it is unclear what is represented by "the ergonomics". In claim 11, the recitation "the air bag element thereof" is vague. In claim 11, the recitation "can also be" is vague. In claim 11, "the outer side" lacks proper antecedent basis. Line 4 of claim 11 is grammatically incorrect. Note the recitation "in case of a small saddle thereof". In line 1 of claim 12, "The saddle structure" lacks proper antecedent basis. In claim 12, the recitation "can also be" fails to define the metes and bounds of the claim. In claim 12, "the upper surface" lacks proper antecedent basis. In claim 12, "the top" lacks proper antecedent basis. In claim 12, the recitation "the saddle thereof" is grammatically vague. In claim 12, "the middle section" lacks proper antecedent basis. In claim 12, "the elastic support element" lacks proper antecedent basis. In claim 12, the scope of the recitation "figured like" is unclear. In claim 12, "the upper section" lacks proper antecedent basis. In claim 12, the recitation "the air bags thereof" is grammatically vague. The scope of the recitation "triangle-like stop rib" cannot be ascertained in claim 12. In claim 12, the recitation "the same shape" lacks proper antecedent basis. In claim 12, the recitation "shaped like the" is vague. In claim 12, the recitation "each sleeve rib therein" is grammatically vague. In the last line of claim 12, the recitation "air bag thereof" is grammatically vague. The scope of the

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recitation "can be" in claim 13 is unclear. Claim 13 is contradictory in that it sets forth the leather as rubber or plastic. Applicant is reminded that these specific citations are exemplary only, as numerous similar instances of indefiniteness can be found throughout the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) he has abandoned the invention.

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

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directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(f) he did not himself invent the subject matter sought to be patented.

(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claims 1-3, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Chiarella (5108076). In Figures 5 and 6, note the saddle (12), spongy mass (16), leather layer (18), and elastic reinforcing area (21). Also, note that in claims 2 and 3, Applicant does not positively presets the structure (note the recitations "can be" and "can also be"). As such, the subject matter of claims 2 and 3 has not been given any patentable weight.

Conclusion

Claims 4-13 have not been rejected based upon the prior art, however indefiniteness in the claims has hindered an understanding of the scope of these claims. Although it appears that these claims may include allowable subject matter, they must be extensively corrected before allowability can be determined.

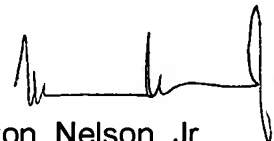
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A saddle assembly with an incorporated cushioning means is shown by each of Yu (5348369), Davis (611377), Sager (566344), Kruseman (718850), Yu (6095601), Nakahara (5911475), Yates (5904396), and Harrison (5720518).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn
June 28, 2004